File No 570

1885

Collection No.

~~Mysore Residency~~

~~Pers.~~ Serial No. 142

138

Subject.

Rules to regulate the admission, enrolment &c of advocates & pleaders in Mysore

Previous References.

Later References

Memo

Letter No. 6 dated 16th Apr. 1884 from the Dewan of Mysore

The Dewan has sent a Draft Regulation to amend the law relating to Legal Practitioners in Mysore. He proposed to introduce the Regulation on 1st June 1884 soon after the re-opening of the Courts.

2. The law at present in force in Mysore in regard to Legal Practitioners is contained in Chief Commissioner's Notification No. 273 dated 18th February 1879 (published with the approval of the Government of India in Foreign Dept. Notification No. 306 dated 12th March 1880.

The first of these Notifications lays down Rules for the Enrolment, suspension and dismissal of Advocates and Pleaders and the

Serial No. 1

could relates to agreements between Legal Practitioners & their clients & c.

3. Having compared the provisions of the draft Regulation with those of the existing Rules, I beg to bring the following facts to notice.

enclosure to

encl: no:

(1) Provision is made in Section 2 of the Regulation allowing existing Advocates and Pleaders to practise under the present Rules up to the close of the current Calendar year. Those legal practitioners will be given new certificates at the commencement of the next year under Rules to be framed by the Chief Court under the authority of Section 10 of the Regulation.

Sec: 2 of the Regulation

enclosure to

(2). Paras 9 to 11 of the existing Rules specify the qualifications of persons

to be enrolled as Advocates and Pleaders. These qualifications are enumerated in the Regulation and it is left to the Chief Court to frame rules on the subject with the sanction of the Durbar. This is in similar to the practice now obtaining in British India and is in accordance with the provisions of Section 6 of the Legal Practitioners' Act, a copy of which is herewith submitted.

Section 10 to 12 of the Regulation. Serial No. 3.

(3) It is proposed that the certificates of enrolment should be issued on payment of a fee which has to be fixed by the Chief Court with the approval of the Durbar and that such certificates should be renewed yearly on payment of a fee. This also is in accordance with the practice obtaining in

British India under the provisions of the Legal Practitioners Act. Under the existing practice in Mysore no fee is paid for enrolment and the certificates once issued are never renewed.

(4). Section 13 of the Regulation is taken from clause 15 of the existing Rules, but while under the Rule a person convicted of any criminal offence is liable to dismissal the Regulation restricts that punishment to the case of such offences as imply a defect of character which unfits the person concerned to be a legal practitioner. As there are many such acts which do not imply bad character, such persons as

S. 13 of the Regulation.
Enclosure to Serial No 3.
* Serial No 1.

under the Indian Penal Code, no amendment made in the Regulation seems to me to be an improvement.

Sections 14 to 21 of the Regn enclosure to Serial No. 1

(5) Sections 14 to 21 of the Regulation which relate to inquiries into charges of misconduct brought against Legal Practitioners are the same as paragraphs 16 to 23 of the Existing Rules.

Serial No. 1

Sec: 22 of the Regn enclosure to 5

(6) Section 22 of the Regulation provides that the Chief Court shall from time to time, and with the sanction of the Hyderabad Govt make rules fixing and regulating the fees payable by any party in respect of his adversary's pleader legal practitioner upon all proceedings in the Courts.

This section appears to have been taken from S. 25 of the Legal Practitioners' Act which however leaves the power to make such

rules in the hands of the High Court without reference to the Local Government. The existing rules on the subject are contained in Judicial Commissioners Civil Rule of Practice No. 20 dated 20th July 1879, which appear to have been framed on the Judicial Commissioners own authority under the provisions of S. 652 of the Code of Civil Procedure. It is intended by the Regulation that such rules should in future receive the assent of the Mysore Govt.

S. 652 of the Civil Pro: Code.

The High Court may from time to time make rules consistent with this Code to regulate any matter connected with its own procedure or the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

(7). Sections 24 to 28 of the Regulation are simply a re-production of the Rules published by the Government of India in Foreign Department Notification No. 306 dated 12th March 1880.

Sections 24 to 28 of the Regulation are common to Civil [illegible]

4 A draft letter to the Govt. of India is submitted

HWS 22/4 22/4/84

Enclosure

Serial

Letter No. 2495 I. dated
1st July 1884
Serial No. 5

Enclosure to Serial No. 3

5. The draft Regulations was submitted for the approval of the Govt. of India with this Office letter No. 242/33 dated 25th April last.

6. The Government of India have now given their consent to the publication of the Regulation by the Durbar, but they suggest that a clause should be inserted in the Regulation or separate orders should be issued by H.H. the Maharaja's Govt. to the effect that the provisions of the new Regulation will not affect the position of the Advocates and Pleaders enrolled in the Mysore Courts before the Regulation. ~~The~~ Section 2 of the Regulation

provides that the existing
Advocates and Pleaders
may continue to practise
under the present Rules
up to the end of the
current Calendar year
and under Sec: 10 the
Chief Court has to make
Rules, with the approval
of the Mysore Govt,
in regard to the qualifi-
-cations for admission
as Advocates or Pleaders.
As it is possible that
by the Rules which are
hereafter to be framed
by the Chief Court some
of the existing Advocates
or Pleaders may be
excluded from the bar
the Govt: of India
have properly reserv
-ed the discretion

of the provision above referred to. But on the same grounds I think that all Advocates and Pleaders existing at this time should be left unaffected by the Regulation instead of lawful those who were practising before the Rendition.

Serial No. 5.

7. Attention is also invited by the Government of India to Act IX of 1884 which amends the Legal Practitioners' Act XVIII of 1

The Legal Practitioners Act is not in force in Mysore, but certain Rules have been framed thereunder for Mysore. The Regulation does sanctioned by the

Enclosure 1/1

Government of India
contains such of the
provisions of the Act
as have been considered
desirable for Mysore.
The attention of the
Durbar may attach
be invited to the
Amending Act IX
of 1884, as suggested
by the Govt: of India.

8. Submitted with
draft letter to the Serial No
Dewan for approvals.

14/7

14.7.84.

9. Letter 870–136 dated Serial No 6.
16th July 1884, to the Dewan, Embodying
the views of the Govern-
ment of India mentioned
in paragraphs 6, 7 & 8 above.

Serial No 7 10 Letter No. 871-136, dated 16th July 1884, to the Government of India Foreign Department forwarding a Copy of letter No. 870-136, Serial No 6 dated 16th idem, to the Dewan of Mysore was issued

11. As desired by the Government of India in their letter No 2495 I. Serial No. 5. dated the 1st July 1884, the Mysore Durbar issued a Notification Serial No. 7. No. 87 d 25th July 1884 to the effect that the position of the Advocates and Pleaders enrolled under the rules of the 18th February 1871 would not be affected by the

Practitioners' Regulation Serial No 8
III of 1884 and that
they were entitled to
practise in the Courts
of Mysore up to 31st
December 1884. Further
that if they wished to
continue practising
after the said date,
they should obtain
a certificate under
Section 11 of the Regulation, Serial No 8
and that the rules
to be framed under
Section 10 of the Regn.
Ition would Enable
the Chief Court to
grant such Certificates.

12. The Mysore Chief
Court framed the
rules under Section 10 of the Regn. Serial No 10
6th Nov 1884 / 12th December
13 & published them

in the Mysore Gazette of 20th December 1884.
By these rules also the position of the Advocates and Pleaders who were enrolled before the Rendition has not been affected. Even the position of all those persons who were enrolled after the Rendition under those Rules of 18th February 1879 has not been affected.

8th October 1885.

No. 273. *The 18th February* 1879.

The following rules to regulate the admission, enrolment, &c., of Advocates and Pleaders in Mysore, sanctioned by the Government of India in Foreign Department despatch, dated 5th February 1879, No. 18 J., are published for information.

ADVOCATES AND PLEADERS' RULES FOR THE PROVINCE OF MYSORE.

Rules for the qualification, admission and enrolment of Advocates and Pleaders and for the suspension or removal from the Rolls, if necessary, of any such persons.

1. Except as provided in the Codes of Civil and Criminal Procedure, or in any other law for the time being in force, no person shall appear, plead or act for another in any Court in Mysore unless he has been enrolled as an Advocate or Pleader under these rules.

Provided that every person accused before any Criminal Court with an offence may, with the permission of the Court, but not otherwise, employ any person to assist him in his defence.

Section 186, Code of Criminal Procedure.

Provided further that any person, *ex-officio*, or otherwise, authorized to act for Government in respect of any judicial proceeding, may make and do appearances, acts and applications, within the scope of his authority on behalf of Government.

Section 417, Code of Criminal Procedure.

2. All persons who at the date of the promulgation of these rules shall have been admitted by competent authority as Pleaders of the Courts in Mysore, in accordance with rules heretofore in force, and who are in active exercise of their profession or intend to engage themselves therein, and who are not manifestly incompetent, shall be entitled, on application to the Judicial Commissioner or the District Judge for the District in which they ordinarily practise, to be enrolled as Advocates or Pleaders in the Court of the Judicial Commissioner of Mysore, or in Courts subordinate to the Court of the Judicial Commissioner, subject to the conditions on which they were admitted as to the class of Courts in which they were entitled to practise.

Provided that the application be made within two years from the date of the promulgation of these rules.

And provided further that the applicant shall not, since the promulgation of the rules, have been guilty of any such act of misconduct as would have justified his suspension or dismissal, had he been enrolled under these rules.

3. The Judicial Commissioner may, at his discretion, admit any Barrister of any of the Inns of Court in England or Ireland, or Member of the Faculty of Advocates in Scotland, or any Advocate, Vakil or Attorney of any of the High Courts of Judicature in India, to be an Advocate of his Court.

But before admission, the Judicial Commissioner may require the applicant to produce such testimonials as shall satisfy the Judicial Commissioner that he is a fit person, in regard to his character and position to be admitted as an Advocate of his Court.

4. Advocates of the Court of the Judicial Commissioner shall be entitled to appear, plead and act in the Court of the Judicial Commissioner, and in any Court subordinate thereto, whether Civil or Criminal.

5. Pleaders in the Courts of Mysore shall be of two grades.

6. Pleaders of the 1st grade shall be entitled to appear, plead and act in the Courts of the Commissioners, the Deputy Commissioners, the Courts of Small Causes and in the Courts of Judicial Assistant Commissioners and Munsiffs, and also in any Criminal Court, except that of the Judicial Commissioner.

7. Pleaders of the 2nd grade shall be entitled to appear, plead and act in the Courts of the Munsiffs and in the Courts of all Magistrates.

8. In any District where there are not resident three Advocates or Pleaders of the 1st class, the Judicial Commissioner may, after six months' notice of his intention so to do, published in the Gazette, authorize by name a sufficient number of Pleaders of the 2nd class to practise in the Court of the Deputy Commissioner and Judicial Assistant.

9. All persons other than those mentioned in rules 2 and 8, who desire to be admitted as Advocates of the Judicial Commissioner's Court, must be qualified as follows, that is to say, they must forward with their applications to the Judicial Commissioner—

(I.) A certificate of respectability and of good moral character.

(II.) A certificate of having received a liberal education not inferior to that required for the entrance examination by any of the Universities in India.

(III.) A certificate of having studied in the Chambers of a practising Advocate, Vakil or Attorney of a High Court for the space of one year.

(IV.) A certificate of the degree of Master of Laws or Bachelor of Laws in the University of any Presidency, or of having passed the Madras Judicial Test, Civil and Criminal by the Higher Grade, or of having practised with good reputation for the space of two years in the Court of the Commissioner or Deputy Commissioner or Judicial Assistant Commissioner as a Pleader of the 1st Grade, or as an Advocate or Pleader in Courts of Law of equal rank elsewhere, and of being qualified in the opinion of the Judge of the Court in which the applicant may have ordinarily practised, to be admitted as an Advocate of the 1st Grade.

(V.) A certificate of being between the ages of 20 and 40 unless the applicant shall have been previously practising as an Advocate or Pleader as prescribed in the preceding clause.

Pleaders of the 1st Grade.

10. All persons other than those mentioned in rules 2 and 3, who desire to be admitted as Pleaders of the 1st Grade, must be qualified as follows, that is to say, they must forward with their applications to the Judicial Commissioner—

(I.) A certificate of respectability and of good moral character.

(II.) A certificate of having passed the Madras Judicial Test, Civil and Criminal by the Higher Grade, or of having practised with good reputation as a Pleader of the 2nd Grade in Mysore or in Courts of Law elsewhere for the space of two years, and of being qualified in the opinion of the Judge of the Court in which the applicant may have ordinarily practised, to be admitted as a Pleader of the 1st Grade.

Provided that the Judge granting the certificate shall not be of lower judicial rank than that of Munsiff.

(III.) A certificate of being between the ages of 20 and 40, unless the applicant shall have been previously practising as a Pleader as described in the preceding clause.

Pleaders of the 2nd Grade.

11. All persons, other than those mentioned in Rules 2 and 3, who desire to be admitted as Pleaders of the 2nd grade, must be qualified as follows, that is to say they must forward with their applications to the Judicial Commissioner—

(I.) A certificate of respectability and of good moral character.

(II.) A certificate of having passed the Madras Test for Pleaders in Munsiffs' Courts.

(III.) A certificate of being between the ages of 20 and 40.

12. Every application for admission as an Advocate or Pleader of whatever grade shall be submitted with the certificates mentioned in Rules 9, 10, or 11 for the orders of the Judicial Commissioner. Applications shall be presented in person either to the Judicial Commissioner or to the District Judge of the District in which the applicant resides, who, if the application be accompanied with the necessary certificates, shall forward it with his opinion to the Judicial Commissioner, and shall report the name, age, nationality, caste or religion, and residence of the applicant, and the Court or Courts in which he proposes to practise.

13. If the application is found by the Judicial Commissioner to comply with the conditions of the rules, the name of the Advocate or Pleader shall be entered accordingly to his grade, in the Roll of Advocates or Pleaders, which shall be kept in the Court of the Judicial Commissioner, and an extract from the Roll shall be furnished to the applicant, and to the Court in which he proposes to practise.

14. Applications presented to the District Judge under Rule 2 shall be at once forwarded to the Judicial Commissioner with full information as to the class of Courts in which the applicant is entitled to practise, and the particular Court or Courts in which he proposes to practise.

15. The Judicial Commissioner may suspend or dismiss any Advocate or Pleader enrolled under the foregoing Rules who shall be convicted of any criminal offence or who shall be found guilty of fraudulent or grossly improper conduct.

16. If any Advocate or Pleader practising in the Court of the Judicial Commissioner, or any Court subordinate thereto, shall be charged with fraudulent or grossly improper conduct, or shall appear to the Judge or Magistrate to have been guilty of such conduct, the Judge or Magistrate of the Court shall cause a formal charge to be drawn up setting forth concisely and exactly the alleged misconduct, and shall send a copy of the charge to the said Advocate or Pleader, and also a notice that on a day to be therein appointed such charge will be taken into consideration. Such copy and notice shall be served upon the Advocate or Pleader at least ten days before the day so appointed, and on such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence, properly tendered in support of the charge, and by or on behalf of the Advocate or Pleader, and shall proceed to adjudicate the charge

17. If the Judge or Magistrate of any Court subordinate to the Court of the Judicial Commissioner shall find the charge established, and consider that the Advocate or Pleader should be suspended or dismissed in consequence, he shall record his finding, and the grounds thereof, and shall report the same together with the proceedings to the Judicial Commissioner, and the Judicial Commissioner shall proceed to acquit, suspend or dismiss the Advocate or Pleader.

18. Such report when made by the Judge of any Court subordinate to the District Court, or by any Magistrate subordinate to the Magistrate of the District, shall be submitted to the Judge of the District Court or Magistrate of the District, who shall append to the report any remarks that he may think necessary, and an expression of his own opinion in the case, and shall forward the record for the orders of the Judicial Commissioner.

19. The Judge or Magistrate may, pending the investigation and the orders of the Judicial Commissioner, suspend any Pleader from practising in his Court and Courts subordinate thereto.

20. The Judicial Commissioner, in any case in which an Advocate or Pleader shall have been acquitted otherwise than by an order of the Judicial Commissioner, may call for the record, and pass such order thereon as to him shall seem fit.

21. The Judicial Commissioner may also direct that any charge preferred against an Advocate or Pleader in any Court subordinate to his own, shall be transferred for adjudication to his own or to any other Court of equal or superior grade to that in which the charge was preferred.

22. A note of the suspension of any Advocate or Pleader shall be made in the Roll of Advocates or Pleaders, and notice thereof shall be sent to all Courts subordinate to the Court of the Judicial Commissioner.

23. The name of any Advocate or Pleader dismissed under the foregoing rules shall be struck off the Roll of Advocates or Pleaders, and notice thereof shall be sent to all Courts subordinate to the Court of the Judicial Commissioner.

No. 274. *The 13th February 1879.*

The following extract from the general register of officials of and above the rank of Shekdar, and of those persons employed in Division Offices, &c., of and above the rank of Peon, who have been dismissed, and are disqualified from holding employment in any Department of the Mysore and Coorg Administrations, is published for general information.

Department.	Name of Official.	Rank.	Amount of Pay.	Date of Dismissal.	Cause of Dismissal.	Remarks.
			Rs. A. P.			
Treasury Department, Bangalore District.	Ratnasami Pille.	Cash Accountant.	25 0 0	26th March 1878.	For theft of Government Property.	Convicted and sentenced to rigorous imprisonment for three months.

No. 275. *The 17th February* 1879.

The attention of all Heads of Departments in Bangalore is requested to the Chief Comm Circular No. 1354—191, dated 27th July 1863, directing that all service letters and parcels intended for delivery in the station be sent direct to the officers concerned and not through the Anche Department.

No. 276. *The 15th February* 1879.

Mr. N. Krishna Rao, M. A., Officiating Assistant Commissioner, assumed charge of the Head-quarter Sub-Division and 1st Assistant Commissioner's Court, Bangalore District, from Captain J. S. F. Mackenzie, on the afternoon of the 4th February 1879.

No. 277. *The 19th February* 1879.

Captain A. H. Macmurdo, Assistant Superintendent, Mysore Revenue Survey, is granted privilege leave for one month and seven days, from 1st February 1879, or such date as he may avail himself of it.

No. 278. *The 20th February* 1879.

Mr. D. Namakal Rao, Offg. Police Assistant Commissioner, Túmkúr District, is granted three months' privilege leave from such date as he may avail himself of it

MUNICIPAL.

No. 279. *The 18th February* 1879.

Under the provisions of section 3, Bangalore Municipal Regulations of 1871, the Chief Commissioner is pleased to appoint the following gentlemen as Municipal Commissioners in the Cantonment of Bangalore :—

For No. 2 Shule Division.	Mr. S. Lee.
„ No. 3 Arab Lines and Richmond Town Dn.	Capt. P. Curley.
„ No. 6 High Ground Division.	Major-Genl. C. G. Ottley and Mr. G. G. Brown.

The undermentioned roads now situated within the limits of No. 5 Division are transferred to No. 6 Division :—

Miller's Road.	Bedarhalli
Benson Road.	Nundydroog Road.
Benson Cross.	Túmkúr Road.

and the boundaries of the Divisions as now modified are as follows :—

5th Division Blackpalli.

Bounded on the north by the Railway Premises ; on the south by the General Parade Ground ; on the east by Cockburn Sultanji, New Market and Main Guard Cross Roads ; and on the west by Railway Road.

6th Division High Ground.

Bounded on the north by north of Guttahalli south of Bedarhalli valley and north of Bedarhalli ; on the south by north of Pettah of Bangalore; on the east by west of Tanneries, Tannery and Railway Roads, General Parade Ground and Sidney Road ; and on the west by east of Darmambudhi Tank, Mysore Silledars' stablings and Rifle Butts.

By Order,
W. J. CUNINGHAM,
Offg. Secretary.

PUBLIC WORKS.

NOTIFICATIONS.

No. 163. *The 14th February* 1879.

The services of M. Singáravelu Modaliar, temporary Accountant, 4th grade, being no longer required in connection with Famine Relief Works in Mysore, are dispensed with from the 1st instant.

Thu 12th March 1868.

No. 306.— The following Notification of the Government of India, Foreign Department, is re-published for general information:-

Foreign Department, Notification, Judicial
No. 37 J. J., Fort William, the 1st March 1868.

The Governor General in Council is pleased to declare that the following rules re-lating to the agreements of Legal Practitioners with Clients, and imposing a penalty on the re-ceiving or giving of Commission, shall come into force in the Territories of Mysore on and from the date hereof:-

1. In these rules "Legal Practitioner" means an "Advocate or Pleader enrolled in the Court of the Judicial Commissioner of Mysore or in any Court subordinate thereto."-

2. No agreement entered into by any Legal Practitioner with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Legal Practitioner shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in

which some portion of the business in respect of which it has been executed has been or is to be done.

3. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

4. Such an agreement shall exclude any further claim of the Legal Practitioner beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees charges or disbursements, if any, as are expressly excepted by the agreement.

5. A provision in any such agreement that the Legal Practitioner shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Legal Practitioner, shall be wholly void.

6. Whoever commits any of the following offences:—

(a) solicits or receives from any Legal Practitioner any gratification in Con-

-sideration

consideration of procuring or having procured his employment in any legal business;

(b) retains any gratification out of remuneration paid or delivered, or agreed to be paid or delivered to any Legal Practitioner for such employment;

(C) being a Legal Practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Legal Practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.-

Rules

relating to the agreements between Legal Practitioners and clients in Mysore

(1880).